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W.P.No.9618 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 10.07.2023

PRONOUNCED ON : 17.10.2023

CORAM :

THE HONOURABLE MR.JUSTICE RMT. TEEKAA RAMAN

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Dhakshinamoorthy

: Petitioner

-VS-

1.The Tamil Nadu State Transport
Corporation (Salem) Ltd.,
Rep. By its Chairman-cum-Secretary to
Government, Transport Department,
No.12, Ramakrishna Road,
Salem-636 007.

2.The Managing Director,
Tamil Nadu State Transport Corporation (Salem) Ltd.,
No.12, Ramakrishna Road,
Salem-636 007.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the order dated 27.04.2010 issued by the second respondent in Pa.Mu.No.43-65-4435-D1-TNSTC-2008-2 and the order of the first respondent communicated by the second respondent in Letter No.111-D1-O.Na.Pi-TNSTC(S)-2011 dated 02.09.2011 quash the same and consequently, direct the respondents to reinstate the petitioner into service



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notionally with continuity of service, back wages and all other attendant benefits including monthly pension and also to settle him forthwith all the terminal benefits with effect from 01.02.2011 with arrears and also to regularize the period of suspension from 19.08.2008 to 26.10.2009 as duty with all benefits together with interest, award costs.

For Petitioner : Mr.V.Ajoy Khose

For R1 : Mr.M.Muthusamy
Government Advocate

For R2 : Mr.R.Babu

ORDER

The present writ petition is filed to quash the dismissal order dated 27.04.2010 issued by the second respondent and consequently, to direct the respondents to reinstate the petitioner into service notionally with continuity of back wages including attendant benefits, terminal benefits and pension and also regularization the period of suspension.

2. The service matrix of the petitioner that are required for the determination in this petition are as under:

2.1. The petitioner was appointed as Junior Assistant and elevated to the rank of Assistant and Senior Assistant under time bound review under



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Longevity Pay Scheme.

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2.2. The petitioner was promoted to the cadre of Assistant Manager (Personnel) and dismissed from service on 27.04.2010. During the tenure of his service as Section Officer in the Personnel Section at Dharmapuri Regional Office, Drivers and Conductors were appointed at Dharmapuri Region in large numbers through Employment Exchange.

3.The crux of the *lis* :

3.1. During the recruitment, in gross abuse of power by him by tampering records, the petitioner maneuvered to send call letters to 19 candidates not sponsored by the Employment Exchange and 15 among them being appointed as Conductors in the respondent Corporation.

3.2. The malpractice indulged by the petitioner was brought to light. The District Employment Officer, Dharmapuri vide his letter dated 11.07.2008 requested to furnish him a copy of sponsored list as the same was not readily available in his office stating Tvl.S.Murugan S/o.Subramani and Sankar S/o Munusamy permanent residence of Kadathur, Dharmapuri



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District have been issued order of appointment though not sponsored by the Employment Exchange.

3.3. While inquiring into the above, it was noticed besides the above averted two persons as many as 19 persons, not sponsored by the Employment Exchange, have been issued call letters and 15 among them have been appointed. The call letters were sent for 19 persons taking advantage of double entries found in respect of 19 persons in the sponsored lists by the Employment Exchange.

3.4. The letter dated 11.07.2008 received from the District Employment Officer, Dharmapuri set the disciplinary action in motion. It is only when probing into details as to how to the two persons averted in the District Employment Officer letter were given appointment orders, though actually not sponsored by the District Employment Office, the further irregularities in another 17 cases came to light.

3.5. The sum and substance of the charge as against the petitioner is that at the relevant point of time, the petitioner was Section Officer in the



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Personnel Department and he was solely supervisor in-charge of the recruitment of Drivers and Conductors. He is alleged to have been in actual connivance and criminal conspiracy with the other staff by maneuvering and interpolating in the official documents, he arranged to send call letters to 19 Conductors, not sponsored by the Employment Exchange and 15 among them being selected and appointed.

3.6. The charge sheet has been issued to the petitioner on 07.10.2008 and that the petitioner gave a reply on 24.11.2008 and enquiry was conducted and in the enquiry, sufficient opportunities have been placed and charges are found to have been proved and second show cause notice was issued and explanation submitted by the petitioner found to be unsatisfactory and the proposed punishment was confirmed and he was dismissed from service on 27.04.2010. The departmental appeal and mercy petition have also been rejected and hence, the writ petition.

3.7. At the time of the impugned order, the petitioner had six months to retire.



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4. Heard the learned counsel appearing for the petitioner, the learned Government Advocate appearing for the first respondent and the learned counsel appearing for the second respondent.

5(a). The petitioner has contended that Thiru.T.Mahendran, who framed charges and put his signature in the note file in respect of his case file, the second respondent ought not to have appointed him as Enquiry Officer.

5(b). From the records, it reveals that Thiru.T.Mahendran, has not issued any charge sheet to the petitioner. The second respondent is the competent authority to issue charge sheet to the petitioner. Furthermore, in the domestic enquiry, a factual finding is rendered that the petitioner has signed in the note file invariably at all places when orders were sought for sending call letters to 3466 persons for the period from 17.04.2007 to 05.06.2007.

5(c). It is to be noted that the call letters have been sent invariably on all occasions only after the approval of petitioner. Therefore, the allegations that the petitioner's superior officer, P.Balraj, Assistant Manager, directly



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dealt the file without routing it through him is false, fictitious and deserves to be dismissed as figment of imagination. Thus, the fact remains that the petitioner has failed to ensure that selection order was issued only to the selected candidates sponsored by the employment exchange, he has to discharge his duty scrupulously and he needs no assistance of experienced persons, there is no system failure as contended by the petitioner.

6. It is seen that the petitioner has not only his supervision was slipshod and unscrupulous but also failed to control the recruitment activities of his subordinates, in particular, while sending call letters, preparation of computer panel list and appointment order etc, and they had resulted in the substitution of the names of 19 Conductors not sponsored through Dharmapuri Employment Exchange and Selection of 15 among them and hence, in view of the above factual position, I do not find that the order of the dismissal passed by the competent authority calls for interference.

7. Accordingly, this Writ Petition is dismissed. No costs.



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Index: Yes / No
Internet: Yes / No
NCC : Yes/No
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RMT. TEEKAA RAMAN, J.

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To

The Chairman-cum-Secretary to Government,
Tamil Nadu State Transport Corporation (Salem) Ltd.,
Transport Department,
No.12, Ramakrishna Road,
Salem-636 007.

Pre-Delivery Order made in
W.P.No.9618 of 2012

17.10.2023